

1 HONORABLE BENJAMIN H. SETTLE  
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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 DOUGLAS BISHOP, as an individual, and as  
9 Personal Representative for the ESTATE OF  
10 QUINCY BISHOP, and on behalf of B.G.B. and  
11 M.D.B, minors, VICTORIA BISHOP, as an  
12 individual, CORY BISHOP and KIARA  
13 BISHOP and the marital community comprised  
14 thereof,

15 Plaintiffs,

16 v.

17 CITY OF BUCKLEY, a political subdivision  
18 of the State of Washington d/b/a Buckley  
19 Police Department, ARTHUR FETTER, an  
20 individual, and KURT ALFANO, an  
21 individual,

22 Defendants.

NO. 3:22-cv-05759-BHS

DEFENDANTS' ANSWER TO  
PLAINTIFFS' COMPLAINT

16 COME NOW Defendants City of Buckley, Arthur Fetter, and Kurt Alfano (herein  
17 "Defendants") and by way of answer to Plaintiffs' Complaint (dkt. # 1), admit, deny, and allege as  
18 follows:

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DEFENDANTS' ANSWER TO  
PLAINTIFFS' COMPLAINT - 1  
(3:22-cv-05759-BHS)

CHRISTIE LAW GROUP, PLLC  
2100 WESTLAKE AVENUE N., SUITE 206  
SEATTLE, WA 98109  
206-957-9669

1. Answering paragraph 1, Defendants deny all allegations.

2. **I. PARTIES**

3. 2. Answering paragraph 2, Defendants admit that the City of Buckley (“City”) is a  
4. municipal entity within the State of Washington. Defendants further admit the Buckley Police  
5. Department (“BPD”) is a subdivision of the City and that BPD provides law enforcement services.  
6. Except as admitted, Defendants deny all allegations in paragraph 2.

7. 3. Answering paragraph 3, Defendant Kurt Alfano is the Chief of Police of the City of  
8. Buckley Police Department, but deny that he held that position on November 1, 2020. Except as  
9. admitted, Defendants deny all allegations in paragraph 3.

10. 4. Answering paragraph 4, Defendants admit the allegations.

11. 5. Answering paragraph 5, Defendants deny all allegations in for lack of information.

12. 6. Answering paragraph 6, Defendants deny all allegations for lack of information.

13. 7. Answering paragraph 7, Defendants deny all allegations for lack of information.

14. 8. Answering paragraph 8, Defendants deny all allegations for lack of information.

15. 9. Answering paragraph 9, Defendants admit the November 1, 2020 incident put at issue  
16. by Plaintiffs’ Complaint occurred near the home of Cory Bishop. Except as admitted, Defendants  
17. deny all allegations in paragraph 9.

18. 10. Answering paragraph 10, Defendants admit the November 1, 2020 incident put at  
19. issue by Plaintiffs’ Complaint occurred near the home of Kiara Bishop. Except as admitted,  
20. Defendants deny all allegations in paragraph 10.

21. ///

22. ///

1 11. Answering paragraph 11, Defendants admit that Quincy Ivan Bishop was shot and  
2 killed in his truck during the November 1, 2020 incident put at issue by Plaintiffs' Complaint. Except  
3 as admitted, Defendants deny all allegations in paragraph 11.

4 12. Paragraph 12 does not require an answer from Defendants.

5 **II. JURISDICTION AND VENUE**

6 13. Answering paragraph 13, Defendants admit the allegations.

7 14. Answering paragraph 14, Defendants admit that the venue is proper. Except as  
8 admitted, Defendants deny all allegations in Paragraph 14.

9 **III. STATUATORY COMPLIANCE**

10 15. Answering paragraph 15, Defendants admit the allegations.

11 16. Answering paragraph 16, Defendants deny the allegations as overly broad legal  
12 conclusions.

13 **IV. STATEMENT OF FACTS**

14 17. Answering paragraph 17, Defendants deny all allegations.

15 18. Answering paragraph 18, Defendants admit that on November 1, 2020 Officer Fetter,  
16 who was investigating an alleged domestic violence incident involving Quincy Bishop, spoke with  
17 Cory Bishop and asked him if his brother, Quincy Bishop, was at Cory Bishop's home. A short time  
18 later, Cory Bishop contacted Officer Fetter and told him Quincy Bishop had recently arrived at Cory  
19 Bishop's house. Officer Fetter told Cory Bishop he was waiting for another officer and would be at  
20 Cory Bishop's house shortly. Except as admitted, Defendants deny all allegations in paragraph 4.18.

21 19. Answering paragraph 19, Defendants admit that on November 1, 2020 at  
22 approximately 9:00 p.m. Officer Fetter arrived at 1721 Kilt Ct., Puyallup, Washington to contact

1 Quincy Bishop regarding an alleged domestic violence incident that had occurred earlier the same  
2 day. Except as admitted, Defendants deny all allegations in paragraph 19.

3 20. Answering paragraph 20, Defendants admit Officer Fetter knew Cory and Quincy  
4 Bishop and was in the same high school graduating class as Cory Bishop. Except as admitted,  
5 Defendants deny all allegations in paragraph 20.

6 21. Answering paragraph 21, Defendants admit that as he approached 1721 Kilt Ct.,  
7 Puyallup, Washington, Officer Fetter was accompanied by Officer Barclay Tuell of the Puyallup  
8 Police Department, Deputy Bryan Ashmore of the Pierce County Sheriff's Department, and Deputy  
9 Travis Calderwood of the Pierce County Sheriff's Department. When Officer Fetter arrived at the  
10 address, Cory and Quincy Bishop were standing inside of the home looking out of the window. When  
11 Officer Fetter exited his patrol vehicle, Quincy Bishop was on the walkway outside of the home.  
12 Except as admitted, Defendants deny all allegations in paragraph 21.

13 22. Answering paragraph 22, Defendants admit that Officer Fetter told Quincy Bishop he  
14 needed Quincy to come back to the police station with him. Except as admitted, Defendants deny all  
15 allegations in paragraph 22.

16 23. Answering paragraph 23, Defendants deny all allegations.

17 24. Answering paragraph 24, Defendants admit that Officer Fetter ordered Quincy Bishop  
18 to get out of the vehicle and Mr. Bishop failed to comply with that order. After Mr. Bishop failed to  
19 comply with Officer Fetter's order to get out of the vehicle, Officer Fetter grabbed Mr. Bishop's left  
20 arm in a lawful effort to remove him from the vehicle, but Quincy Bishop continued to resist and  
21 began to draw a semi-automatic handgun from his waistband. Except as admitted, Defendants deny  
22 all allegations in paragraph 24.

1       25. Answering paragraph 25, Defendants admit that Officer Fetter fired one round from  
2 his service pistol to prevent Mr. Bishop from shooting him and/or other officers in the area.  
3 Defendants further admit that officers from other law enforcement agencies also fired their weapons  
4 in response to the deadly threat Quincy Bishop posed. Defendants further admit that Quincy Bishop  
5 died. Except as admitted, Defendants deny all allegations in paragraph 25.

6       26. Answering paragraph 26, Defendants deny all allegations.

7       27. Answering paragraph 27, Defendants deny placing Cory Bishop in a patrol car, and  
8 deny for lack of information all allegations that officers from other agencies placed Cory Bishop in a  
9 patrol car. Defendants deny all other allegations in paragraph 27.

10      28. Answering paragraph 28, Defendants admit Quincy Bishop had been placed next to  
11 his vehicle and he had multiple gunshot wounds. Except as admitted, Defendants deny all allegations  
12 in paragraph 28.

13      29. Answering paragraph 29, Defendants deny all allegations.

14      30. Answering paragraph 30, Defendants deny all allegations.

15      31. Answering paragraph 31, Defendants deny all allegations.

16      32. Answering paragraph 32, Defendants deny all allegations.

17      33. Answering paragraph 33, Defendants deny all allegations.

18      **V. FIRST CAUSE OF ACTION – UNCONSTITUTIONAL USE OF  
EXCESSIVE FORCE**

19      34. Answering paragraph 34, Defendants deny all allegations.

20      35. Answering paragraph 35, Defendants deny all allegations.

21      36. Answering paragraph 36, Defendants deny all allegations.

- 1 37. Answering paragraph 37, Defendants deny all allegations.
- 2 38. Answering paragraph 38, Defendants deny all allegations.
- 3 39. Answering paragraph 39, Defendants deny all allegations.
- 4 40. Answering paragraph 40, Defendants deny all allegations.

5 **VI. SECOND CAUSE OF ACTION – VIOLATIONS OF CONSTITUTIONAL  
RIGHTS BY DEFENDANT CITY OF BUCKLEY AND POLICY MAKERS**

- 6 41. Answering paragraph 41, Defendants deny all allegations.
- 7 42. Answering paragraph 42, Defendants deny all allegations.
- 8 43. Answering paragraph 43, Defendants deny all allegations.
- 9 44. Answering paragraph 44, Defendants deny all allegations.
- 10 45. Answering paragraph 45, Defendants deny all allegations.

11 **VII. THIRD CAUSE OF ACTION – VIOLATIONS OF CORY BISHOP'S  
CONSTITUTIONAL RIGHTS BY DEFENDANTS**

- 13 46. Answering paragraph 46, Defendants deny all allegations.
- 14 47. Answering paragraph 47, Defendants deny all allegations.

15 **VIII. FOURTH CAUSE OF ACTION – NEGLEGENT INFILCTION OF  
EMOTIONAL DISTRESS**

- 16 48. Answering paragraph 48, Defendants deny all allegations.
- 17 49. Answering paragraph 49, Defendants deny all allegations.

18 **IX. FIFTH CAUSE OF ACTION – NEGLIGENCE – CITY OF BUCKLEY**

- 19 50. Answering paragraph 50, Defendants deny all allegations.
- 20 51. Answering paragraph 51, Defendants deny all allegations.
- 21 52. Answering paragraph 52, Defendants deny all allegations.

- 1 53. Answering paragraph 53, Defendants deny all allegations.
- 2 54. Answering paragraph 54, Defendants deny all allegations.
- 3 55. Answering paragraph 55, Defendants deny all allegations.
- 4 56. Answering paragraph 56, Defendants deny all allegations.

5 **X. PRAYER FOR RELIEF**

6 57. Answering paragraphs 57 through 62, Defendants deny all allegations and deny that  
7 Plaintiffs are entitled to any relief.

8 FURTHER, AND BY WAY OF AFFIRMATIVE DEFENSES, Defendants allege as  
9 follows:

10 **FIRST AFFIRMATIVE DEFENSE**

11 Plaintiffs have a duty to mitigate their damages. To the extent Plaintiffs have failed to mitigate  
12 their damages, their recovery, if any, must be reduced.

13 **SECOND AFFIRMATIVE DEFENSE**

14 Plaintiffs' damages, if any, were a direct and proximate result of the actions or omissions of  
15 third parties over which Defendants had no control, and for which Defendants bear no liability or  
16 responsibility whatsoever. Defendants may be entitled to an allocation of fault and damages pursuant  
17 to RCW 4.22.070 from the City of Puyallup and Pierce County, as well as others who may be  
18 identified during discovery.

19 **THIRD AFFIRMATIVE DEFENSE**

20 Plaintiffs' negligence claims are barred by the Public Duty Doctrine.

21 **FOURTH AFFIRMATIVE DEFENSE**

22 Officer Fetter and Chief Alfano are entitled to qualified immunity under state and federal law.

## FIFTH AFFIRMATIVE DEFENSE

All actions of the City of Buckley and its police officers were performed in good faith, were reasonable, were based on probable cause, and were within their lawful authority.

## SIXTH AFFIRMATIVE DEFENSE

Quincy Bishop's injuries were proximately caused by his own acts and omissions and Plaintiffs' recovery, if any, must be proportionately reduced.

### SEVENTH AFFIRMATIVE DEFENSE

Quincy Bishop assumed the risk of any alleged injuries.

#### EIGHTH AFFIRMATIVE DEFENSE

The answering Defendants did not breach any duty of care owed to Plaintiffs.

## NINTH AFFIRMATIVE DEFENSE

The answering Defendants did not proximately cause any damages to Plaintiffs. Any alleged injuries were proximately caused by the superseding and intervening acts of other officers on the scene employed by the City of Puyallup and/or Pierce County, Washington.

## TENTH AFFIRMATIVE DEFENSE

Quincy Bishop was committing a felony at the time he sustained alleged damages, and Plaintiffs' state law claims are therefore barred pursuant to RCW 4.24.420.

## ELEVENTH AFFIRMATIVE DEFENSE

By way of reservation of rights, without waiver, Defendants specifically reserve the right to amend their answer and affirmative defenses herein, including adding counterclaims and third-party claims as additional investigation, discovery or circumstances may warrant.

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1 WHEREFORE, having fully answered Plaintiffs' complaint and asserted affirmative  
2 defenses, Defendants pray for relief as follows:

3 1. That Plaintiffs' complaint be dismissed with prejudice and that they take nothing thereby;  
4 2. That Defendants be awarded costs and attorneys' fees as allowed by law; and  
5 3. That Defendants be awarded such other and further relief as the court deems just.

6 DATED this 27<sup>th</sup> day of October, 2022.

7 CHRISTIE LAW GROUP, PLLC

8 By /s/ Thomas P. Miller  
9 THOMAS P. MILLER, WSBA #34473  
10 Attorney for Defendants City of Buckley,  
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**CERTIFICATE OF SERVICE**

I hereby certify that on October 27, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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